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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/724,004

11/28/2000

Joseph Averkamp

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12/03/2003

EXAMINER

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ART-UNIT

PAPER NUMBER

2685

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Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/724,004

Applicant(s)

AVERKAMP, JOSEPH

Examiner

Duy K Le

Art Unit

2685

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 16 October 2003.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-24, 26 and 27 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 14 and 23 is/are allowed.
- 6) ☒ Claim(s) 1-13, 15-22, and 24 is/are rejected.
- 7) ☒ Claim(s) 26 and 27 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All   b) ☐ Some \*   c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)                      4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)                      5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_                      6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

1. This action is in response to amendment filed on October 16, 2003.

***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1-4, 6-7, 15-16, and 24 are rejected under 35 U.S.C. 102(e) as being anticipated by Kennedy et al. (U.S. Patent 6,377,825).

As to claim 1, Figures 1A, 1B, 3, 4A, and 4B in Kennedy clearly show a control system that is coupled externally to a subscriber terminal and comprises an actuator 142 and a controller 320, a routine performed by the controller for (i) determining, based at least on the actuation signal and status of the subscriber terminal, an action to be taken by the subscriber terminal (“Where a telephone call is not in progress (i.e., the telephone 102 is on-hook), a user may command that a general voice recognition mode be entered” (Col. 19, lines 13-15).

“Alternatively, the user may press a button 142a provided on the exterior of the pocket 104b to place the system 100 in voice recognition mode” (Col. 19, lines 16-22)), (ii) generating a directive indicative of the action, and (iii) sending the directive to the subscriber terminal (“Thus when the command “call home” is received, a signal to initiate a telephone call will be formatted in the API of the system 100, and passed to the microprocessor 320 of pocket A2 104b, where

the API command is translated into a signal understood by the telephone 102. Where the telephone number associated with “home” is stored in memory 324 or 340, the command to the telephone 102 may consist of the digits of the telephone number and the send command” (Col. 19, lines 44-52)). The subscriber terminal may then take the action in response to the directive and in the description above, dials a telephone number.

As to claim 2, Figure 3 in Kennedy shows a microphone 368 for receiving audio signals to be provided to the subscriber terminal. “Thus, the pocket A1 104a may provide basic speaker phone functions” (Col. 15, lines 58-59). “The basic speaker phone functions may comprise the provision of a speaker 366 and microphone 368” (Col. 15, lines 60-62).

As to claim 3, Figure 3 in Kennedy shows an audio output source 344 for providing audio signals from the subscriber terminal to the speaker 366.

As to claim 4, Figure 1B in Kennedy shows an actuator 142b that comprises a single button.

As to claim 6, Figure 3 in Kennedy shows a processor 320 and a memory 324 that together comprise the controller. “Specifically, the memory 324 of the pocket 104 contains code, machine language instructions, that allows the pocket 104 to translate between commands formatted in the API of the system 100 and the proprietary communications interface of the telephone 102” (Col. 14, lines 38-42).

As to claim 7, a plurality of functions in the subscriber terminal is interpreted as including dialing a telephone number and taking a voice memo. As cited in claim 1, the subscriber terminal can dial a telephone number as an action in response to a directive from the controller. In addition, “by pressing the associated buttons 142b, or by issuing the appropriate

voice command, such as “take a memo”, the system 100 may be configured to record a voice message” (Col. 19, lines 61-63).

As to claim 15, the specification in Kennedy describes “the telephone 102 can be a wireless communications device” which is functionally equivalent to a wireless subscriber terminal.

As to claim 16, as cited in claim 1, the Kennedy reference discloses a method for controlling communications of a subscriber terminal 102 comprising receiving an actuation signal from buttons 142, receiving an indication of the status of the subscriber terminal, such as “Where a telephone call is not in progress (i.e., the telephone 102 is on-hook)” (Col. 19, lines 13-14), sending a directive to the subscriber terminal, such as a command to the telephone 102 that “may consist of the digits of the telephone number and the send command” (Col. 19, lines 51-52), and whereby the subscriber terminal may then take an action by dialing the telephone number.

As to claim 24, as cited in claim 15, the Kennedy reference discloses the subscriber terminal is a wireless subscriber terminal.

### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 8, 10, 13, 17, 19, 22, and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 6,377,825 to Kennedy et al. in view of Kravitz (U.S. Patent 6,035,217).

As to claim 8, as cited in claim 1, the Kennedy reference discloses a control system wherein the action of the subscriber terminal, when it is on and idle, is dialing a telephone number. However, the Kennedy reference does not disclose dialing to establish a dial-up connection to a voice-activated-dialing platform and whereby, a user speaks to the voice-activated-dialing platform a telephone number to be called.

Figure 6 in Kravitz clearly shows the steps for user to make a call using a voice-activated-dialing platform. The user presses a single button to dial a service provider that can be an automatic voice-recognition device. "After the user is connected with the service provider, the user communicates a desired number to the service provider by speaking the number to be called into the microphone 214 of the one button cellular phone 100" (Col. 5, lines 19-22). The service provider then "dials the requested number" (Col. 5, line 28).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the hands-free communication device of Kennedy to dial and establish a connection to a voice-activated-dialing platform and then an user can speak a desired number to be called to the a voice-activated-dialing platform that dials the requested number. One would have been motivated to make such a modification in view of the suggestion in Kravitz to allow users to make telephone call without having to key in a telephone number and thus alleviate the problem and danger when the user is using a wireless phone while driving a car and having to hold the telephone in one hand and operate the car with the other hand.

As to claim 10, as cited in claim 1, the Kennedy reference discloses a control system wherein, based on the actuation signal and the status of the subscriber terminal, the controller sends a directive indicative of the action that the subscriber terminal may take. However, the Kennedy reference does not disclose that when the subscriber terminal is on and engaged in a call, the controller sends a directive indicative of the action that comprises terminating the call.

Figure 5 in Kravitz clearly shows that when the subscriber terminal is engaged in a call, with pressing the button, the call is terminated. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the hands-free communication device of Kennedy to terminate the call, when the subscriber terminal is on and engaged in a call, with the actuation of the actuator. One would have been motivated to make such a modification in view of the suggestion in Kravitz to be able to terminate a call in progress with one push of a single button easily seen and accessed on a hands-free communication device versus a small and difficult-to-access key on a subscriber terminal for which an user, when driving, would be distracted with looking.

As to claim 13, as cited in claim 1, the Kennedy reference discloses a control system wherein, based on the actuation signal and the status of the subscriber terminal, the controller sends a directive indicative of the action that the subscriber terminal may take. However, the Kennedy reference does not disclose that when the subscriber terminal is on and receiving an incoming call, the controller sends a directive indicative of the action that the subscriber terminal connects to the call.

Figure 4 in Kravitz clearly shows that when the subscriber terminal is receiving an incoming call, with pressing the button, the call is connected. Therefore, it would have been

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obvious to one having ordinary skill in the art at the time the invention was made to modify the hands-free communication device of Kennedy to connect the call, when the subscriber terminal is on and receiving an incoming call, with the actuation of the actuator. One would have been motivated to make such a modification in view of the suggestion in Kravitz to be able to answer an incoming call with one push of a single button easily seen and accessed on a hands-free communication device versus a small and difficult-to-access key on a subscriber terminal that an user, when driving, should not be distracted with looking for.

As to claim 17, as cited in claim 8, Kennedy in view of Kravitz discloses the method of claim 16, wherein if the subscriber terminal is on and idle, then the action comprises the subscriber terminal dialing one or more digits for establishing a dial-up connection to a voice-activated dialing platform.

As to claim 19, as cited in claim 10, Kennedy in view of Kravitz discloses the method of claim 16, wherein, if the subscriber terminal is on and engaged in a call, then the action comprises the subscriber terminal terminating the call.

As to claim 22, as cited in claim 13, Kennedy in view of Kravitz discloses the method of claim 16, wherein, if the subscriber terminal is on and receiving an incoming call, the controller sends a directive indicative of the action that the subscriber terminal connects to the call.

As to claim 25, the Kennedy reference discloses a system comprising a wireless subscriber terminal 102, a single actuator 142b, a processor 320 and a memory 324 that together comprise the controller that is externally coupled to the wireless subscriber terminal, and a microphone 368. However, the Kennedy reference does not disclose dialing to establish a dial-up



connection to a voice-activated-dialing platform and whereby, a user speaks to the voice-activated-dialing platform a telephone number to be called.

Figure 6 in Kravitz clearly shows the steps for user to make a call using a voice-activated-dialing platform. The user presses a single button to dial a service provider that can be an automatic voice-recognition device. "After the user is connected with the service provider, the user communicates a desired number to the service provider by speaking the number to be called into the microphone 214 of the one button cellular phone 100" (Col. 5, lines 19-22). The service provider then "dials the requested number" (Col. 5, line 28).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the hands-free communication device of Kennedy to dial and establish a connection to a voice-activated-dialing platform and then an user can speak a desired number to be called to the a voice-activated-dialing platform that dials the requested number. One would have been motivated to make such a modification in view of the suggestion in Kravitz to provide users with a system to make telephone call without having to key in a telephone number and thus alleviate the problem and danger when the user is using a wireless phone while driving a car and having to hold the telephone in one hand and operate the car with the other hand.

6. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 6,377,825 to Kennedy et al. in view of Kunihiro et al. (U.S. Patent 5,915,228).

The Kennedy reference describes the control system of claim 1, except for the actuator as a single rotary dial. Figure 1B in Kunihiro clearly shows a rotary dial as an actuator. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was

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made to modify the hands-free communication device of Kennedy to have the actuator that comprises a single rotary dial as taught by Kunihiro. The rotary dial is easy for a user to actuate many operations.

7. Claims 9 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 6,377,825 to Kennedy et al. in view of Kravitz (U.S. Patent 6,035,217) and further in view of Kirbas et al. (U.S. Patent 6,449,497).

As to claims 9 and 18, as cited in claim 8, Kennedy in view of Kravitz discloses the control system as recited in claim 8, except for the one or more digits that the subscriber terminal dials are selected from the group consisting of a feature code and a telephone number.

Figure 4 in Kirbas shows a complete destination telephone number with a feature code pre-pended. "The partial destination telephone number is supplemented by adding feature codes to generate a complete destination telephone number" (Col. 4, lines 54-57).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the control system of Kennedy-Kravitz to have the subscriber terminal dialing one or more digits from the group consisting of a feature code and a telephone number. One would have been motivated to make such a modification in view of the suggestion in Kirbas to speed-dial a telephone number by not having to key in all the digits of the telephone number.

8. Claims 11-12 and 20-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 6,377,825 to Kennedy et al. in view of Kravitz (U.S. Patent 6,035,217) and further in view of Maloney (U.S. Patent 6,453,169).

As to claims 11 and 20, Kennedy in view of Kravitz describes the control system, as recited in claim 10, wherein, if the subscriber terminal is on and engaged in a call, it terminates the call with the actuation of the actuator. However, Kennedy in view of Kravitz does not disclose that the actuator was actuated for at least a predetermined duration.

Figure 9 in Maloney shows a determination of duration of power key depression for the subscriber terminal to take an action. "The communication device comprises at least a power key, and a control circuit, coupled to the power key, for sensing an actuation of the power key, and for silencing an alert in response to the actuation of the power key if a duration of the actuation is greater than a first predetermined time period" (Col. 2, lines 41-47).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the control system of Kennedy-Kravitz to have the subscriber terminal terminating the call, if it is on and engaged in a call, when the actuator was actuated for at least a predetermined duration as taught by Maloney. One would have been motivated to make such a modification to prevent accidental press of the actuator terminating a call.

As to claims 12 and 21, the predetermined duration T1 as denoted in Figure 9 in Maloney can be any duration sufficiently long, such as 1.5 seconds. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the control system of Kennedy-Kravitz to have the actuator actuated for a predetermined duration of 1.5 seconds as taught by Maloney in order for the controller to know and ignore short duration depression of the actuator so as to prevent accidental press of the actuator terminating a call.

***Allowable Subject Matter***

9. Claims 14 and 23 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The prior art of record fails to show or fairly suggest a system and method, wherein, if the subscriber terminal is on and engaged in call placed via a voice-activated dialing platform, then with the actuation of the actuator, the subscriber terminal instructs the voice-activated dialing platform to disconnect the call but to retain a connection between the voice-activated dialing platform and the subscriber terminal so that the subscriber terminal can make another call via the voice-activated dialing platform.

### ***Response to Arguments***

10. Applicant's arguments filed October 16, 2003 have been fully considered but they are not persuasive.

With respect to the newly amended claims 1 and 16, the applicants amended the claims to recite that if the status is a first status, then, in response to the indication of status and the actuation signal, the controller determines a first action to be taken by the subscriber terminal and sends a first directive to the subscriber terminal indicating the first action to be taken. Alternatively, if the status is a second status, then, in response to the indication of status and the actuation signal, the controller determines a second action to be taken by the subscriber terminal and sends a second directive to the subscriber terminal indicating the second action to be taken. The first status is different than the second status, the first action is different than the second action, and the first directive is different than the second directive. The Griffith reference (U.S.

Patent 6,128,514) does teach or suggest what is recited in the newly amended claims 1 and 16 ("the flow chart on FIG. 3 illustrates the function of the cellular telephone 10. When it is desired to answer an incoming call or make a phone call, the turbo dial button 32 is pressed to send an interrupt signal to the slave microprocessor 42 at 60 of the block diagram in FIG. 3. The master microprocessor 40 inquires as to whether the phone 10 is powered up at 62. If the phone is not powered up, the master microprocessor 40 signals the power control of the 48 to power up at 64. The master microprocessor 40 then inquires at 66 as to whether the phone 10 is ringing. If the phone is ringing, the call is automatically answered at 68. If the phone is not ringing, the master microprocessor 40 automatically dials the stored number for the remote central voice-activated dialing system at 70" (Col. 5, lines 24-37)).

11. With respect to the newly amended claims 14 and 23, the applicants rewrote in independent form including all limitations of the base claim and intervening claims as cited by the examiner in the Office Action. Thus, the newly amended claims 14 and 23 are allowed.

12. With respect to the new claims 26 and 27, the applicants included the limitations of previously pending claims 14 and 23. As cited by the examiner in the Office Action, the new claims 26 and 27 (previously claims 14 and 23 respectively) are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

### ***Conclusion***

13. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

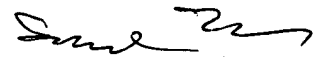
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Duy K Le whose telephone number is 703-305-5660. The examiner can normally be reached on 8:30 am - 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edward F Urban can be reached on 703-305-4385. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3900.

Duy Le  
November 26, 2003

  
EDWARD F. URBAN  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2600